

## PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: BURNE, R. A. *et al.*

Application No.: 10/574,730 Confirmation No. 5558

International Application: PCT/US2004/033214

International Filing Date: 07 October 2004

For: RECOMBINANT ALKALINIZING BACTERIA

## RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS

Mail Stop PCT  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Sir:

In the above-identified application, Applicants has received a Notice of Missing Requirements under 35 U.S.C. § 371, mailed December 5, 2006, indicating that the oath was missing and a that the application fails to comply with the requirements of 37 C.F.R. 1.821-1.825. In response, Applicant hereby submits the executed Declaration for the above-identified application signed by the inventor and the surcharge in the amount of \$65.00 required under 37 C.F.R. §1.492(e). The computer readable and paper forms of the Sequence Listing are submitted herewith, pursuant to 37 C.F.R. 1.821-1.825. Applicant has also included a copy of the Notification of Missing Requirements Under 35 U.S.C. 371 December 5, 2006. Applicant requests examination on the merits.

01/09/2007 LLANDGRA 00000047 500951 10574730

01 FC:2617 65.00 DA

Date: January 5, 2007

Docket No. 5853-454-1

Respectfully submitted,



Nicholas A. Zachariades  
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## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
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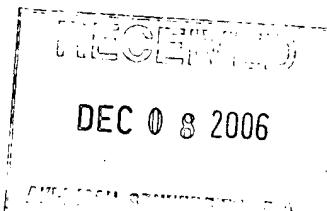
U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/574,730	Robert A. Burne	58534541
INTERNATIONAL APPLICATION NO.		
		PCT/US04/33214
30448	I.A. FILING DATE	PRIORITY DATE
AKERMAN SENTERFITT	10/07/2004	10/07/2003
P.O. BOX 3188		
WEST PALM BEACH, FL 33402-3188		
CONFIRMATION NO. 5558		
371 FORMALITIES LETTER		
 *OC000000021462943*		

Date Mailed: 12/05/2006

### NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Indication of Small Entity Status
- Copy of the International Application filed on 04/06/2006
- Copy of the International Search Report filed on 04/06/2006
- Preliminary Amendments filed on 04/06/2006
- Information Disclosure Statements filed on 04/06/2006
- U.S. Basic National Fees filed on 04/06/2006
- Priority Documents filed on 04/06/2006
- Specification filed on 04/06/2006
- Claims filed on 04/06/2006
- Abstracts filed on 04/06/2006
- Drawings filed on 04/06/2006
- Paper nucleotide sequence listings filed on 04/06/2006



The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

**SUMMARY OF FEES DUE:**

Total additional fees required for this application is **\$65** for a Small Entity:

- **\$65 Surcharge.**

- This application clearly fails to comply with the requirements of 37 CFR. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment specifically directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

**For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:**

- **For Rules Interpretation, call (571) 272-0951**
- **For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.**
- **Send e-mail correspondence for Patentin Software Program Help. [Help@ebc@uspto.gov](mailto:Help@ebc@uspto.gov)**

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.  
<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

ANITA D JOHNSON

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Telephone: (703) 308-9140 EXT 226

**PART 1 - ATTORNEY/APPLICANT COPY**

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U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/574,730	PCT/US04/33214	58534541

FORM PCT/DO/EO/905 (371 Formalities Notice)

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

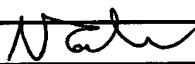
TRANSMITTAL  
FORM

(to be used for all correspondence after initial filing)

TRANSMITTAL FORM  (to be used for all correspondence after initial filing)	Application Number	10/574,730	
	Filing Date	OCTOBER 7, 2004	
	First Named Inventor	BURNE, ROBERT A.	
	Art Unit	UNASSIGNED	
	Examiner Name	UNASSIGNED	
Total Number of Pages in This Submission		Attorney Docket Number	5853-454-1

ENCLOSURES (Check all that apply)			
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input checked="" type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)	
	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences	
	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)	
	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information	
	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter	
	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please Identify below):	
	<input type="checkbox"/> Terminal Disclaimer	RETURN RECEIPT POSTCARD	
	<input type="checkbox"/> Request for Refund	SEQUENCE LISTING (PAPER & DISK)	
	<input type="checkbox"/> CD, Number of CD(s) _____	EXECUTED DECLARATION	
		Remarks	

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Akerman Senterfit/Nicholas Zachariades, Reg. No. 56,712 West Palm Beach FL 33402-3188	
Signature		
Date	JANUARY 5, 2007	

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Nicholas A. Zachariades, Reg. No. 56,712		
Signature		Date	JANUARY 5, 2007

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL

## For FY 2005

 Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT** (\$ 65.00)

**Complete if Known**

Application Number	10/574,730
Filing Date	OCTOBER 7, 2004
First Named Inventor	BURNE, ROBERT A.
Examiner Name	UNASSIGNED
Art Unit	UNASSIGNED
Attorney Docket No.	5853-454-1

**METHOD OF PAYMENT** (check all that apply)

 Check  Credit Card  Money Order  None  Other (please identify): \_\_\_\_\_

 Deposit Account Deposit Account Number: 50-0951 Deposit Account Name: Akerman Senterfitt

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

<input checked="" type="checkbox"/> Charge fee(s) indicated below	<input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee
<input checked="" type="checkbox"/> Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17	<input checked="" type="checkbox"/> Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION**
**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

<u>Application Type</u>	<u>FILING FEES</u>		<u>SEARCH FEES</u>		<u>EXAMINATION FEES</u>		<u>Fees Paid (\$)</u>
	<u>Small Entity</u>	<u>Fee (\$)</u>	<u>Small Entity</u>	<u>Fee (\$)</u>	<u>Small Entity</u>	<u>Fee (\$)</u>	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

**2. EXCESS CLAIM FEES**
Fee Description

Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent

<u>Small Entity</u>	
<u>Fee (\$)</u>	<u>Fee (\$)</u>

50 25

Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent

200 100

Multiple dependent claims

360 180

<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
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<u>Multiple Dependent Claims</u>	
<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>

- 20 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of total claims paid for, if greater than 20

<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
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- 3 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of independent claims paid for, if greater than 3

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

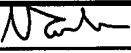
<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
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- 100 = 0 / 50 = (round up to a whole number) x \_\_\_\_\_ = \_\_\_\_\_

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other: EXECUTED DECLARATION 65.00
**SUBMITTED BY**

Signature		Registration No. 56,712 (Attorney/Agent)	Telephone (561) 653-5000
Name (Print/Type)	Nicholas A. Zachariades		Date JANUARY 5, 2007

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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